

REMARKS**I. Response to Rejections Under 35 U.S.C. §112**

Examiner has rejected independent claims 11-12 under 35 U.S.C. §112 second paragraph "as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." In response to the Examiner's comments the Applicant has amended independent claims 11 and 12 such that structural limitations are not dependent on elements or features which are not positively claimed. The Applicant has amended independent claim 11 to positively claim a gyroscopically stabilized throwable implement, and has added new claim 13 dependent on claim 11 positively claiming a gyroscopically stabilized throwable implement including a recordable medium.

Accordingly, the Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 112 second paragraph rejection of independent claims 11-12.

III. Response to Rejections Under 35 U.S.C. §102

Examiner has rejected claims 6, 7, 9, and 12 under 35 U.S.C. §102(b) as being anticipated by Wyatt (EP 0429195 A2, "Wyatt"). This rejection is respectfully traversed because all of the elements of the claimed invention are not present in the cited reference.

Amended independent claims 6 and 12 disclose "a disk-shaped body having an axis of rotation, and having at least a first essentially convex surface and a second surface causing aerodynamic lift when thrown and gyroscopic stability when freely rotating about said axis of rotation." In contrast, Wyatt discloses "[a]s illustrated in Figures 1 and 2, a compact disk storage case includes a tray 10 moulded from rigid plastics material. The tray 10 defines a circular recess 11 for location of a compact disk 12, diametric portions 13 of the wall of the recess 11 being left open." Col. 2, lines 36-41. Examiner is respectively directed to Figures 1 and 2, which show tray 10 in a top-view and cross-sectional view respectively. In Figure 2, tray 10 is illustrated as a rectangular parallelepiped structure with a substantially planar bottom surface, perpendicular sidewalls, and a substantially planar opening as the top surface. Wyatt also discloses "[t]he underlying surface 136 may be provided by the base portion of a case in which tray 10 is located, said case having a hinged or sliding lid. Alternatively, the tray may define the base portion of a case, surface 136 being provided by integral portion of the tray 10 spaced from the central portion 15." Col. 4, lines 53-59. Further, Wyatt, in Figure 7, illustrates surface 136 as being planar. Thus, Wyatt discloses a tray having a rectangular parallelepiped shape with planar surfaces, and does not disclose "a disk-shaped body having . . . at least a first essentially convex surface and a second surface causing aerodynamic lift," as disclosed and claimed in the instant case.

Thus, because Wyatt does not disclose, "a disk-shaped body having . . . at least a first essentially convex surface and a second surface causing aerodynamic lift," as recited in amended independent claims 6 and 12; Wyatt does not anticipate or render obvious independent claim 6 nor dependent claims 7-10, which depend on

independent claim 6, nor amended independent claim 12, since "a disk-shaped body having . . . at least a first essentially convex surface and a second surface causing aerodynamic lift" are elements of the claimed invention arranged in a manner distinct from that disclosed in Wyatt.

Since a proper anticipation rejection requires that there be present in a single prior art reference a disclosure of all of the elements of the claimed invention arranged as in the claims, Applicant believes that Wyatt does not anticipate the present invention. *See* MPEP 2131. Therefore, the Applicant respectfully requests that the Examiner withdraw the rejection of claims 6, 7, 9, and 12 based on Wyatt under 35 U.S.C. § 102.

Response to Rejections Under 35 U.S.C. § 103

Examiner has rejected claims 8, 10, and 11, under 35 U.S.C. § 103(a) as being unpatentable over Wyatt (EP 0429195 A2, "Wyatt") in view of Nomula (U.S. 4,895,252, "Nomula"). This rejection is respectfully traversed with regard to claims 8, 10, and 11 since neither of the cited references, taken either individually, or in combination therewith, teach, suggest, or mention the claimed invention.

In regards to dependent claims 8 and 10, dependent claims 8 and 10 are dependent upon independent claim 1, and are therefore believed to be allowable as dependent upon a believed allowable claim. In addition, Nomula does not disclose, teach or suggest, "a disk-shaped body . . . having at least a first essentially convex surface and a second surface causing aerodynamic lift when thrown," as it is disclosed, defined, and claimed, in independent claim 6 by the Applicant in the instant specification. Nomula teaches a package 10 for an optical disc having "an upper sheet 12 and a lower sheet 14, both of which are preferably formed of uniform thickness." Col 2, lines 53-54. In addition, Nomula discloses "[t]he perimeter of the lower sheet 14 defines a channel which . . . defines an outer shoulder 44. The shoulder 44 is in turn surrounded by a peripheral flange 46." Col. 3, lines 30-34. Further, Nomula

discloses that upper sheet 12 includes "peripheral shoulder 66 . . . surrounded by a flange 68 positioned to overly the flange 46" of lower sheet 14. Col.3, lines 45-46.

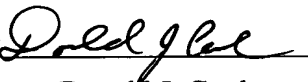
Examiner is respectively directed to Figures 3 and 4, which show cross-sectional views of package 10. In Figure 3 and 4, package 10 is illustrated as having a substantially flat surface for upper sheet 12 and lower sheet 14. The Applicant has been unable to find any description within Nomula that describes the shape of the outer surfaces of either upper sheet 12 or lower sheet 14. In addition, as illustrated in Figures 3 and 4 peripheral shoulder 66 and outer shoulder 44 form an oblique angle to flanges 66 and 46 respectively. In Figure 4 the angle appears to be approximately 90 degrees. Thus, Nomula teaches an optical disc package having substantially flat surfaces meeting at well defined angles. The combination of Wyatt and Nomula are silent on "a disk-shaped body . . . having at least a first essentially convex surface and a second surface causing aerodynamic lift when thrown." Thus, the Examiner's suggested combination (which may or may not be proper) of Wyatt and Nomula does not teach the present invention as recited in dependent claims 8 and 10. Accordingly, the Applicant asserts that the rejection has been overcome.

In regards to independent claim 11, independent claim 11 also discloses "a disk-shaped body . . . having at least a first essentially convex surface and a second surface causing aerodynamic lift when thrown." As noted above for dependent claims 8, 10 Nomula teaches an optical disc package having substantially flat surfaces meeting at well defined angles. The combination of Wyatt and Nomula are silent on "a disk-shaped body . . . having at least a first essentially convex surface and a second surface causing aerodynamic lift when thrown." Thus, the Examiner's suggested combination (which may or may not be proper) of Wyatt and Nomula does not teach the present invention as recited in independent claim 11. Accordingly, the Applicant asserts that the rejection has been overcome.

Therefore, in view of the foregoing Amendment and Remarks, Applicant believes the present application to be in a condition suitable for allowance. Examiner is respectfully urged to withdraw the rejections, reconsider the present Application in light of the foregoing Amendment, and pass the amended Application to allowance.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call applicant's representative at (541) 715-1694 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully Submitted,
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ATTACHMENT 1

6. (Twice Amended) A gyroscopically stabilized throwable implement, comprising:

a disk-shaped body having an axis of rotation, and having at least a first essentially convex surface and a second surface [configured to provide] causing aerodynamic lift when thrown and gyroscopic stability when freely rotating about said axis of rotation;

a plurality of flexible fingers attached to one of said first surface and said second surface, disposed in a first circle concentric with said axis of rotation, and protruding for a predetermined distance away from said one of said first surface and said second surface, whereby a recordable disk medium may be releasably coupled to said body.

11. (Twice Amended) A gyroscopically stabilized throwable implement, [adapted to include a recordable medium] comprising: a disk-shaped body having an axis of rotation, and having at least a first essentially convex surface and a second surface [configured to provide] causing aerodynamic lift when thrown and gyroscopic stability when freely rotating about said axis of rotation, said disk-shaped body having an aperture extending through said disk-shaped body from said first surface to said second surface, said aperture having an areal shape congruent with and adapted to include a recordable medium [essentially equal to that of the recordable medium], centered about said axis of rotation, and bounded along at least a portion of [its] a periphery of said aperture by an indented lip pair having a spacing dimension between each lip of said lip pair equal to or less than the thickness dimension of [the] said recordable medium, whereby said body removably encompasses [the] said recordable medium.

12. (Twice Amended) A gyroscopically stabilized throwable implement, [and recordable medium] comprising:

a recordable medium having a recordable medium mass;

a disk-shaped body having an axis of rotation, and having at least a first essentially convex surface and a second surface [configured to provide] causing aerodynamic lift when thrown and gyroscopic stability when freely rotating about said axis of rotation; and

means for removably attaching [the] said recordable medium to said disk-shaped body, parallel to one of said first surface and said second surface, and disposed with said recordable medium mass essentially balanced about said axis of rotation.

13. (New) A gyroscopically stabilized throwable implement in accordance with claim 11, further comprising a recordable medium disposed between each lip of said lip pair.

ATTACHMENT 2

6. (Twice Amended) A gyroscopically stabilized throwable implement, comprising:

a disk-shaped body having an axis of rotation, and having at least a first essentially convex surface and a second surface causing aerodynamic lift when thrown and gyroscopic stability when freely rotating about said axis of rotation;

a plurality of flexible fingers attached to one of said first surface and said second surface, disposed in a first circle concentric with said axis of rotation, and protruding for a predetermined distance away from said one of said first surface and said second surface, whereby a recordable disk medium may be releasably coupled to said body.

11. (Twice Amended) A gyroscopically stabilized throwable implement, comprising: a disk-shaped body having an axis of rotation, and having at least a first essentially convex surface and a second surface causing aerodynamic lift when thrown and gyroscopic stability when freely rotating about said axis of rotation, said disk-shaped body having an aperture extending through said disk-shaped body from said first surface to said second surface, said aperture having an areal shape congruent with and adapted to include a recordable medium, centered about said axis of rotation, and bounded along at least a portion of a periphery of said aperture by an indented lip pair having a spacing dimension between each lip of said lip pair equal to or less than the thickness dimension of said recordable medium, whereby said body removably encompasses said recordable medium.

12. (Twice Amended) A gyroscopically stabilized throwable implement, [and recordable medium] comprising:

a recordable medium having a recordable medium mass;

a disk-shaped body having an axis of rotation, and having at least a first essentially convex surface and a second surface causing aerodynamic lift when thrown and gyroscopic stability when freely rotating about said axis of rotation; and

means for removably attaching said recordable medium to said disk-shaped body, parallel to one of said first surface and said second surface, and disposed with said recordable medium mass essentially balanced about said axis of rotation.

13. (New) A gyroscopically stabilized throwable implement in accordance with claim 11, further comprising a recordable medium disposed between each lip of said lip pair.